

# COMMITTEE STATEMENT

## LB 503

HEARING DATE: February 8, 1999

COMMITTEE ON: Banking, Commerce, and Insurance

TITLE: (Bromm ) Adopt the Public Funds Deposit and Investment Regulation Act

### ROLL CALL VOTE – FINAL COMMITTEE ACTION

---

Advanced to General File

Advanced to General File with Amendments

X Indefinitely Postponed

#### Vote Results:

8	Yes	Senators Landis, Tyson, Aguilar, Bourne, Bruning, Jensen, Kremer, Schmitt
	No	
	Present, not voting	
	Absent	

PROPOSERS	REPRESENTING
Senator Curt Bromm	Introducer
Robert Hallstrom	NE Bankers Association
OPPOSERS	REPRESENTING
Rex Holsapple	NE State Investment Officer
Mark McClurg	NE Public Agency Investment Trust
Jean Sidwell	NE Public Agency Investment Trust
William Kranda	Douglas County Treasurer
Donna Gloschen	NE School District Liquid Asset Trust
John Bonaiuto	NE Assn. Of School Boards
James Gessford	NE School District Liquid Asset Trust
Jack Mills	NE Assn. Of County Officials
NEUTRAL	REPRESENTING
Ken Backemeyer	Union Bank & Trust

#### SUMMARY OF PURPOSE AND/OR CHANGES:

LB 503 (Bromm) would enact new statutes and amend existing statutes regarding (1) the regulation of joint investment of public funds of political subdivisions and (2) the

## COMMITTEE STATEMENT

giving of security by depositories of public funds to secure deposits in excess of amounts insured by the Federal Deposit Insurance Corporations:

1. The bill would enact 5 new sections to be known as the Public Funds Deposit and Investment Regulation Act (sections 1 to 5 of this bill) to provide requirements for investment of funds by political subdivisions in banks and capital stock financial institutions. The bill would also provide restrictions on investment of funds by political subdivisions in a “cooperative investment.” A cooperative investment would mean the investment of funds by more than one political subdivision pursuant to an interlocal cooperation agreement entered into under the Interlocal Cooperation Act. The bill would provide requirements for the administration of a cooperative investment.

2. The bill would amend the Interlocal Cooperation Act to provide that the investment of funds by a joint entity pursuant to an interlocal cooperation agreement creating a cooperative investment shall comply with the Public Funds Deposit and Investment Regulation Act (sections 1 to 5 of this bill).

3. The bill would amend the Public Funds Deposit Security Act (sections 77-2386 to 77-2397) which provides that any bank or capital stock financial institution subject to a requirement by law to secure the deposit of public funds in excess of the amount insured by the FDIC may give security by furnishing securities (as defined in the act) or providing a deposit guaranty bond (as defined in the act) pursuant to the act. The bill would amend the definition of “securities” to include “repurchase agreements” which therefore may be furnished to secure deposits. The bill would also provide that no governing authority or custodial official shall refuse to accept any securities (as defined in the act) or a deposit guaranty bond (as defined in the act), and no governing authority or custodial official shall discriminate against a bank or capital stock financial institution based upon the securities furnished or the deposit guaranty bond provided.

The bill, section by section:

### PUBLIC FUNDS DEPOSIT AND INVESTMENT REGULATION

Section 1. would enact a new section to provide for citation to a named act: the Public Funds Deposit and Investment Regulation Act (sections 1 to 5 of this bill);

Section 2. would enact a section to provide definitions (Among these, “cooperative investment” would mean investment of funds by more than one political subdivision pursuant to an interlocal cooperation agreement under the Interlocal Cooperation Act.);

Section 3. would enact a new section to provide that every interlocal cooperation agreement creating a cooperative investment shall contain:

(1) a statement of the investment objectives to be achieved;

## COMMITTEE STATEMENT

- (2) an enumeration of the types of investments that may be purchased;
- (3) a statement of the maximum time remaining to maturity of individual investments and the maximum weighted average maturity of all investments made;
- (4) an enumeration of the diversification standards for size, type, and maturity of investments;
- (5) an enumeration of a participant political subdivision's rights regarding contributions and distributions;
- (6) a description of the methodology to establish the value of each participant political subdivision's interests in investments made;
- (7) a statement that the market value of investments shall be determined at least monthly;
- (8) a statement that the agreement has obtained the highest rating of a nationally recognized statistical rating organization; and
- (9) a description of the responsibilities of the governing board of the cooperative investment;

Section 4. would enact a new section to provide requirements for the administration by a governing board of a cooperative investment;

Section 5. would provide that the governing board of a cooperative investment shall:

- (1) administer the agreement;
- (2) establish the investment policy and ensure that investments are in compliance;
- (3) monitor the time remaining to maturity of individual investments and the maximum weighted average maturity of all investments;
- (4) review the investments and ensure that they meet diversification standards;
- (5) ensure that, at least once each month, there is a determination of the market value of investments made;

## COMMITTEE STATEMENT

- (6) ensure that, at least once each month, the portfolio is tested for sensitivity to changes in interest rates;
- (7) secure an irrevocable letter of credit to cover potential losses;
- (8) appoint an executive director;
- (9) procure professional services;
- (10) ensure that an annual CPA audit is conducted;
- (11) ensure that each participant political subdivision receives, and each prospective participant political subdivision receives an information statement that includes: (a) a history of the agreement; (b) a description of the organization and terms of the cooperative investment; (c) a description of the investment objectives, policies, and practices contained in the agreement; (d) a description of current investments held under the agreement; (e) listing of fees and charges; (f) a description of procedures for initiation and termination of participation; and (g) a statement that the cooperative investment is not guaranteed and involves investment risk, including possible loss of principal invested;
- (12) ensure that all participants receive, at least once a year, a report detailing the following information for the preceding 12 months: (a) the investments purchased, sold, and held; (b) the overall investment results, yield, and weighted average maturity; and (c) a list of fees paid for professional services;
- (13) ensure that each participant political subdivision receives written confirmation of contributions and distributions;
- (14) ensure that each participant political subdivision receives a monthly statement which sets forth: (a) all activity by the participant political subdivision; (b) the value of the participant political subdivision's interest under the agreement; and (c) an itemization of all investments held under the agreement, including the market value of each investment; and
- (15) ensure that each participant political subdivision receives notification of a material change in the agreement and that each participant political subdivision and the Auditor of Public Accounts receive notification of anything that may require a deferral of distribution requests or may cause investment losses not anticipated;

## INTERLOCAL COOPERATION

Section 6. would amend section 13-801 of the Interlocal Cooperation Act (sections 13-801 to 13-827) to make technical changes;

## COMMITTEE STATEMENT

Section 7. would enact a new section within the Interlocal Cooperation Act to provide that the investment of funds by a joint entity pursuant to an interlocal cooperation agreement creating a cooperative investment shall comply with the Public Funds Deposit and Investment Regulation Act (sections 1 to 5 of this bill);

### PUBLIC FUNDS DEPOSIT SECURITY

Section 8. would amend section 77-2386 of the Public Funds Deposit Security Act (sections 77-2386 to 77-2397) to make technical changes;

Section 9. would amend section 77-2387 of the Public Funds Deposit Security Act to (1) provide for a definition of a new term: “repurchase agreement”; and (2) provide that the existing definition of “securities” shall include repurchase agreements (Under this act a depository bank or capital stock financial institution furnishes “securities” to secure the deposit of public funds in excess of the amount insured by the FCIC.);

Section 10. would enact a new section in the Public Funds Deposit Security Act to provide that no governing authority or custodial official shall refuse to accept any securities (as defined in the act) or a deposit guaranty bond (as defined in the act) which may be furnished or provided by a depository bank or capital stock financial institution required by law to secure the deposit of public funds in excess of the amount insured by the FDIC;

Section 11. would enact a new section in the Public Funds Deposit Security Act to provide that in selecting a bank or capital stock financial institution as a depository of public funds, no governing authority or custodial official shall discriminate based upon the securities furnished or the deposit guaranty bond provided;

### TECHNICAL

Section 12. would provide duties for the Revisor of Statutes; and

Section 13. would provide repealers.

EXPLANATION OF AMENDMENTS, IF ANY:

---

Senator David Landis